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April 20, 2007

Hon. Vaughn Walker, Chief Judge
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *National Security Agency Telecommunications Records Litigation*
MDL Docket No. 06-1791
United States v. Kurt Adams, et al., Case No. 07-cv-1323 VRW
United States v. James Volz, et al., Case No. 07-cv-1396 VRW

Dear Judge Walker:

We are counsel to the Proposed Intervenor-Defendants in *United States v. Adams* and *United States v. Volz.* We write this joint letter on behalf of those parties to (1) request a ruling by the court on the pending motions to intervene in *Adams* and *Volz* and (2) request that the Court's Order of March 26, 2007 (Doc No.219)[1] setting a briefing schedule in the so-called State Cases be amended to permit the Proposed Intervenors in *Adams* and *Volz* to participate in the briefing of the pending dispositive motions.

The above parties respectfully submit that the delay in ruling on the motions to intervene in *Adams* and *Volz*, and the Court's potential ruling on dispositive motions in the above cases, without affording the Proposed Intervenor-Defendants an opportunity to be heard on the merits of those dispositive motions raises serious due process issues. As the pending motions to intervene in *Adams* and *Volz* make clear, in both cases the underlying state regulatory action that precipitated these suits was undertaken at the behest of the Proposed Intervenors. Fundamentally, it is the Fourth Amendment rights of the Proposed Intervenors in all those cases which is at stake in this litigation. While the State parties have an interest in defending the regulatory authority of the States, it is

[1] Although the Order in Doc. No. 219 establishing a briefing schedule for the dispositive motions in the State cases does not specifically reference *United States v. Adams*, we assume that the Order was intended to include that action inasmuch as that action was part of the underlying motion (Doc. No. 190) that resulted in the Order.

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the Proposed Intervenors which are the real parties that will be affected by the outcome of the case.

The motions of the Proposed Intervenor-Defendants in *Adams* have been pending since September 19, 2006. The Maine District Court in *Adams* expressly declined to rule on the motions to intervene on the grounds that it had received instructions from the MDL Panel that the issue should be left to this court. However, despite our request for a ruling on those motions since the transfer, this court, for reasons not stated, has declined to rule on the motions. Similarly, the motion of the Proposed Intervenor-Defendants in *Volz* has been pending since December 4, 2006 and was not ruled on by the District Court in Vermont pending transfer to this court. The motions in both these cases have been fully briefed and set forth in detail the factual and legal arguments supporting intervention. We submit that those parties easily meet the standards for intervention in the Ninth Circuit, especially in light of the holding in *United States v. State of Washington*, 86 F.3d 1499 (9^{th} Cir. 1996) that "Rule 24(a) is construed broadly in favor of intervention."

Accordingly, we respectfully ask that the Court grant the pending motions to intervene in *Adams* and *Volz* and permit those parties to participate fully in this case to the full extent as the State parties.

Very truly yours,

/s/ John M.R, Paterson
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Maine Bar Number 1400

Counsel for Proposed Intervenors J. Douglas Cowie et al. in *United States v. Adams.*

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cc: All Counsel of Record via ECF system